

PT 96-10
Tax Type: PROPERTY TAX
Issue: Religious Ownership/Use

STATE OF ILLINOIS
DEPARTMENT OF REVENUE
OFFICE OF ADMINISTRATIVE HEARINGS
SPRINGFIELD, ILLINOIS

ST. PETER'S CHURCH OF)	
SPRING GROVE)	
)	
Applicant)	
)	Docket # 94-56-6
v.)	
)	Parcel Index # 04-24-476-008-0041
THE DEPARTMENT OF REVENUE)	
OF THE STATE OF ILLINOIS)	

RECOMMENDATION FOR DISPOSITION

Synopsis:

The hearing in this matter was held at 100 West Randolph Street, Chicago, Illinois on January 24, 1996, to determine whether or not all or part of McHenry County parcel number 04-24-476-008-0041 qualified for exemption from real estate tax for all or part of the 1994 assessment year.

Ms. June Totolo, office manager of St. Peter's Church of Spring Grove (hereinafter referred to as the "applicant"), testified on behalf of the applicant.

The issues in this matter include first, whether the applicant is a religious organization. The second issue is whether the applicant owned this parcel during the 1994 assessment year. The last issue is whether the applicant used the parcel here in issue and the residence located thereon for primarily religious purposes during all or part of the 1994 assessment year. Following the submission of all of the evidence and a review of the record, it is determined that the applicant is a religious organization. It is also determined that the applicant owned this parcel during all of the 1994 assessment year. Finally it is determined that the applicant used the basement,

the first floor and one half of the second floor of the house on this parcel as well as five sixths of the land for primarily religious purposes for 75 percent of the 1994 assessment year.

Findings of Fact:

1. The applicant is a Roman Catholic Congregation of the Diocese of Rockford. This parish serves approximately 600 families. (Tr. p. 9)

2. On October 25, 1973, Arthur J. O'Neill, the Catholic Bishop of Rockford, conveyed this parcel, which is next to the Catholic Church lot, to the applicant. (Dept. Ex. No. 1D)

3. The house on this parcel, which had been the former convent, was occupied by the church janitor and his wife on January 1, 1994. The church janitor and his wife moved out of this house on April 1, 1994. (Tr. pp. 8 & 9)

4. Between April 1, 1994, and June 1, 1994, the applicant did some renovation work in the house as well as cleaning the carpets and moving in furniture. (Tr. p. 8)

5. On June 1, 1994, the applicant began using the first floor of the house on this parcel as the church office. (Tr. p. 8)

6. Beginning in April, the basement of the house on this parcel was used for the storage of liturgical articles, including crosses, planters, statuary, and banners, all of which are used in the church on a seasonal basis. (Tr. p. 12)

7. Approximately the front half of the second floor of the house on this parcel was used, after remodeling, as temporary sleeping quarters by various priests, missionary fathers or other religious persons who came to conduct various religious activities in the applicant parish. (Tr. p. 13)

8. During the period April 1, 1994, through December 31, 1994 the rooms making up approximately the back half of the second floor of the house on this parcel were vacant and not used.

9. Based on the foregoing, I find that the applicant is a religious organization.

10. I also find that the applicant owned the parcel here in issue during the entire 1994 assessment year.

11. Finally I find that during the period April 1, 1994, through December 31, 1994, the applicant was either in the process of adapting the basement, first floor, and approximately one half of the second floor of this house and five sixths of this parcel for religious purposes or actually using said areas for exempt purposes.

Conclusions of Law:

Article IX, Section 6, of the Illinois Constitution of 1970, provides in part as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

35 **ILCS** 200/15-40 provides in part as follows:

All property used exclusively for religious purposes, or used exclusively for school and religious purposes...and not leased or otherwise used with a view to profit, is exempt,....

It is well settled in Illinois, that when a statute purports to grant an exemption from taxation, the fundamental rule of construction is that a tax exemption provision is to be construed strictly against the one who asserts the claim of exemption. International College of Surgeons v. Brenza, 8 Ill.2d 141 (1956). Whenever doubt arises, it is to be resolved against exemption, and in favor of taxation. People ex rel. Goodman v. University of Illinois Foundation, 388 Ill. 363 (1944). Finally, in ascertaining whether or not a property is statutorily tax exempt, the burden of establishing the right to the exemption is on the one who claims the exemption. MacMurray College v. Wright, 38 Ill.2d 272 (1967).

During the period January 1, 1994, through March 31, 1994, this parcel and the two story house located thereon were used by the applicant's janitor and his wife for residential purposes. During the period April 1, 1994 through June 1, 1994, I conclude that the applicant was in the process of adapting the basement, first floor and approximately one half of the second floor of the house on this parcel for religious use.

Illinois courts have held property to be exempt from taxation where it has been adequately demonstrated that the property is in the actual process of development and adaption for exempt use. Illinois Institute of Technology v. Skinner, 49 Ill.2d 59 (1971); People ex rel. Pearsall v Catholic Bishop of Chicago, 311 Ill. 11 (1924); In re Application of County Collector, 48 Ill.App.3d 572 (1st Dist. 1977); and Weslin Properties, Inc. v. Department of Revenue, 157 Ill.App.3d 580 (2nd Dist.1987).

Beginning on June 1, 1994, throughout the remainder of the 1994 calendar year, I conclude that the applicant actually used the basement, first floor and approximately the front half of the second floor of the house on this parcel for primarily religious purposes.

The back half of the second floor of the house on this parcel, I conclude was vacant and not used during the period April 1, 1994 through December 31, 1994.

In the case of the People ex rel. Pearsall v. The Catholic Bishop of Chicago, 311 Ill. 11 (1924), the Illinois Supreme Court held that the mere fact that a property was intended to be used for an exempt purpose was not sufficient to exempt said property. The Court required that the actual primary exempt use must have begun for the property to be exempt. In the case of Antioch Missionary Baptist Church v. Rosewell, 119 Ill.App.3d 981 (1st Dist. 1983), the Court held that property which was vacant and not used, did not qualify for the statutory exemption as property used exclusively for religious purposes, regardless of the owner's intent. The testimony indicates that the rooms located in the back half of the second floor of this house may now be in use for

religious purposes. If that is now the case, it is suggested that the applicant may wish to file an application to exempt that area with the county.

I therefore recommend that five sixths of McHenry County parcel number 04-24-476-008-0041 and the basement, first floor, and one half of the second floor of the house thereon be exempt from real estate tax for 75 percent of the 1994 assessment year.

Respectfully Submitted,

George H. Nafziger
Administrative Law Judge
June ,1996